

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

JEROME WHITFIELD,	§	
	§	
Plaintiff,	§	
	§	
VS.	§	CIVIL ACTION NO. SA-24-CV-1143-FB
	§	
AMERICAN EXPRESS NATIONAL BANK,	§	
	§	
Defendant.	§	

**ORDER REINSTATING CASE ON DOCKET AND**  
**ORDER ACCEPTING REPORT AND RECOMMENDATION**  
**OF UNITED STATES MAGISTRATE JUDGE**

Before the Court is the status of this case and the Report and Recommendation of United States Magistrate Judge filed in the above styled and numbered cause on April 29, 2025 (docket #26). According to the CM/ECF system, the Report and Recommendation was electronically transmitted to both parties on April 29, 2025. To date, the docket sheet reflects no objections to the Report and Recommendation have been received.<sup>1</sup>

Prior to the issuance of the Report and Recommendation, United States Magistrate Judge Richard B. Farrer entered an Order Imposing Stay and Administrative Closure on January 27, 2025 (docket #22), which stayed all proceedings in the case pending the disposition of Defendant American Express National Bank's Motion to Dismiss (docket #11), the subject of the Report and Recommendation, and given the anticipated length of the stay, Magistrate Judge Farrer administratively

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<sup>1</sup> Any party who desires to object to a Magistrate's findings and recommendations must serve and file his, her or its written objections within fourteen days after being served with a copy of the findings and recommendation. 28 U.S.C. § 635(b)(1). If service upon a party is made by mailing a copy to the party's last known address, "service is complete upon mailing." FED. R. CIV. P. 5(b)(2)(C). If service is made by electronic means, "service is complete upon transmission." *Id.* at (E). When the mode of service is by electronic means, three days are no longer added to the time period to act after being served. *See Heverling v. McNeil Consumer Pharmaceuticals, Co.*, Civil Action No. 1:17-CV-1433, 2018 WL 1293304 at \*2 n.3 (M.D. Pa. Mar. 13, 2018) ("On April 28, 2016, the Supreme Court adopted changes to the Federal Rules of Civil Procedure. In pertinent part, the Court amended Rule 6(d) to remove 'electronic means' as a mode of service triggering an additional three days to act when a responsive period commences upon service. *See* FED. R. CIV. P. 6, advisory committee's note to 2016 amendment. The amendments took effect on December 1, 2016.").

closed the case. With the issuance of the Report and Recommendation, the Court finds this case should be reopened and reinstated on the Court's docket.

Accordingly, IT IS HEREBY ORDERED that the stay is lifted and this case is reopened and reinstated on the Court's docket for consideration of the Report and Recommendation referenced above.

Because no party has objected to the Magistrate Judge's Report and Recommendation, the Court need not conduct a de novo review. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made."). The Court has reviewed the Report and finds its reasoning to be neither clearly erroneous nor contrary to law. *United States v. Wilson*, 864 F.2d 1219, 1221 (5th Cir.), *cert. denied*, 492 U.S. 918 (1989). The Recommendation shall therefore be accepted pursuant to 28 U.S.C. § 636(b)(1) such that American Express National Bank's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (docket #11) shall be GRANTED and the case DISMISSED WITH PREJUDICE.

Accordingly, it is hereby ORDERED that the Report and Recommendation of the United States Magistrate Judge filed in this cause on April 29, 2025 (docket #26), is ACCEPTED pursuant to 28 U.S.C. § 636(b)(1) such that American Express National Bank's Motion to Dismiss Pursuant to Federal Rule of Civil Procedure 12(b)(6) (docket #11) is GRANTED and this case is DISMISSED WITH PREJUDICE. Motions pending, if any, are also DISMISSED, and this case is now CLOSED.

It is so ORDERED.

SIGNED this 28th day of May, 2025.

  
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FRED BIERY  
UNITED STATES DISTRICT JUDGE